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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/571,877

04/11/2006

Rainer Trapp

3599-PAT

6866

30084

7590

04/25/2008

DONN K. HARMS  
PATENT & TRADEMARK LAW CENTER  
SUITE 100  
12702 VIA CORTINA  
DEL MAR, CA 92014

EXAMINER

TANNER, JOCELYN C

ART UNIT

PAPER NUMBER

4133

MAIL DATE

DELIVERY MODE

04/25/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/571,877	<b>Applicant(s)</b> TRAPP, RAINER	
	<b>Examiner</b> JOCELIN C. TANNER	<b>Art Unit</b> 4133	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/15/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This is in response to the application filed on April 11, 2006 in which claims 1-10 are presented for examination.

#### ***Status of Claims***

Claims 1-10 are pending, of which claim 1 is in independent form. Claims 1-3 are rejected under 35 U.S.C. 102(e).

#### ***Claim Objections***

1. Claims 4-10 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend on another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 4-10 have not been further treated on the merits.
2. Claims 1-3 are objected to because of the following informalities: The use of reference numerals in the claims is misleading and should not be used as a substitute for clear recitation of structure. The Examiner suggests deletion of the numerals for clarity. Appropriate correction is required.
3. Claim 3 is not in proper format. The Examiner suggests insertion of “any” after “in” (first occurrence) and before “one” in line 1. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claim 2, the recitation of “wave-shaped structure is concave with respect to the angle” is vague and indefinite. It is unclear how a structure is concave with respect to an angle. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

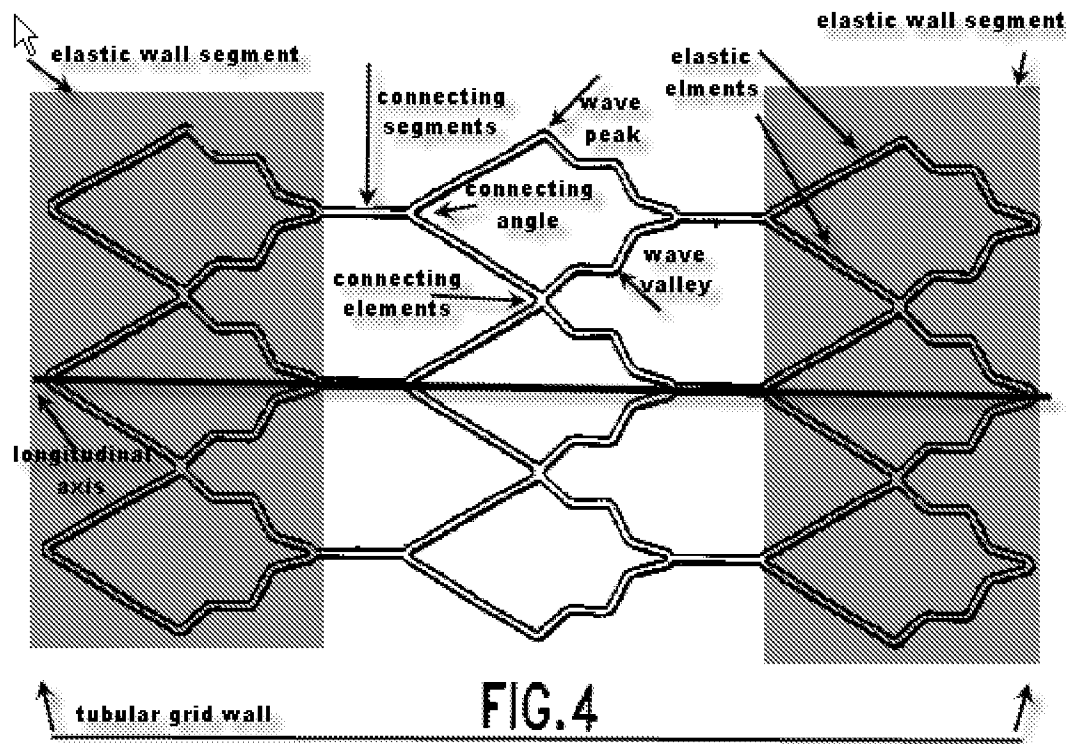
A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by White et al (US Patent No. 6,881,222).

Regarding independent claim 1, White discloses a stent with a tubular grid wall (FIG. 1) progressing around a longitudinal axis including elastic wall segments arranged circumferentially in sequence along the axis and connected to one another by means of connecting segments, wherein the wall segments include elastic elements or portions, which are connected to one another by means of connecting elements, while forming a connecting angle, characterized in that the elastic elements that are made of multiple

individual struts that form a wave-shaped structure with at least one wave peak and one wave valley(column 3, lines 42-60, FIG 3A). Please refer to the figure below.



6. Regarding claim 2, White discloses a concave wave-shaped structure that is opposite an angle. Please refer to the figure above.

7. Regarding claim 3/1, White discloses elastic elements that are connected to connecting elements and form a longitudinal frame by connecting elastic elements to connecting segments and progress in an axial direction wherein longitudinal rows and transverse columns around a tubular grid wall are formed (column 3, lines 42-44).

Please see marked up figure above.

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8. Regarding claim 3/2, White discloses elastic elements that are connected to connecting elements and form a longitudinal frame by connecting elastic elements to connecting segments and progress in an axial direction wherein longitudinal rows and transverse columns around a tubular grid wall are formed (column 3, lines 42-44).

Please see marked up figure above.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lauterjung (US Patent No. 5,707,388) and Kula et al (US Patent No. 6,325,825) are related to flexible stents.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOCELIN C. TANNER whose telephone number is (571)270-5202. The examiner can normally be reached on Monday through Thursday between 9am and 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frantz Coby can be reached on 571-272-4017. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jocelin C. Tanner/  
Examiner, Art Unit 4133

4/22/2008

/Frantz Coby/  
Supervisory Patent Examiner  
Art Unit 4133